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By: **Delegates O'Donnell, Amedori, McComas, Quinter, and Sophocleus**  
Introduced and read first time: February 6, 2003  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: April 2, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Drunk and Drugged Driving - Subsequent Offenders - Penalties**

3 FOR the purpose of ~~expanding the types of alcohol and drug related driving offenses~~  
4 ~~for which certain persons convicted of certain subsequent offenses are subject to~~  
5 ~~certain mandatory minimum penalties of imprisonment for certain periods of~~  
6 ~~time~~; limiting the circumstances under which certain home detention is included  
7 within the meaning of "imprisonment"; repealing certain mandatory minimum  
8 penalty options for community service for certain persons convicted of certain  
9 subsequent alcohol-related driving offenses; ~~expanding the types of alcohol-~~  
10 ~~and drug related driving offenses for which a court is required to order certain~~  
11 ~~persons convicted of certain subsequent offenses to undergo a certain alcohol~~  
12 ~~abuse assessment and to participate in a certain alcohol program under certain~~  
13 ~~circumstances~~ altering certain provisions authorizing certain court ordered  
14 alcohol programs to include certain alcohol programs certified by certain  
15 agencies in adjacent states or approved by the court; and generally relating to  
16 penalties for certain persons convicted of certain subsequent ~~alcohol and~~  
17 ~~drug related~~ alcohol-related driving offenses under certain circumstances.

18 BY repealing and reenacting, without amendments,  
19 Article - Transportation  
20 Section 21-902  
21 Annotated Code of Maryland  
22 (2002 Replacement Volume)

23 BY repealing and reenacting, with amendments,  
24 Article - Transportation  
25 Section 27-101(j)

1 Annotated Code of Maryland  
2 (2002 Replacement Volume)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Transportation**

6 21-902.

7 (a) (1) A person may not drive or attempt to drive any vehicle while under  
8 the influence of alcohol.

9 (2) A person may not drive or attempt to drive any vehicle while the  
10 person is under the influence of alcohol per se.

11 (b) A person may not drive or attempt to drive any vehicle while impaired by  
12 alcohol.

13 (c) (1) A person may not drive or attempt to drive any vehicle while he is so  
14 far impaired by any drug, any combination of drugs, or a combination of one or more  
15 drugs and alcohol that he cannot drive a vehicle safely.

16 (2) It is not a defense to any charge of violating this subsection that the  
17 person charged is or was entitled under the laws of this State to use the drug,  
18 combination of drugs, or combination of one or more drugs and alcohol, unless the  
19 person was unaware that the drug or combination would make the person incapable  
20 of safely driving a vehicle.

21 (d) A person may not drive or attempt to drive any vehicle while the person is  
22 impaired by any controlled dangerous substance, as that term is defined in § 5-101 of  
23 the Criminal Law Article, if the person is not entitled to use the controlled dangerous  
24 substance under the laws of this State.

25 27-101.

26 (j) (1) In this subsection, "imprisonment" includes confinement in:

27 (i) An inpatient rehabilitation or treatment center; or

28 (ii) Home detention that includes electronic monitoring FOR THE  
29 PURPOSE OF PARTICIPATING IN ~~A DRUG OR AN~~ ALCOHOL TREATMENT PROGRAM  
30 THAT IS:

31 1. CERTIFIED BY THE DEPARTMENT OF HEALTH AND  
32 MENTAL HYGIENE;

33 2. CERTIFIED BY AN AGENCY IN AN ADJACENT STATE THAT  
34 HAS POWERS AND DUTIES SIMILAR TO THE DEPARTMENT OF HEALTH AND MENTAL  
35 HYGIENE; OR



